

Customer Number

24024

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE AFTER FINAL

This paper is responsive to the Final Office Action mailed March 13, 2006, setting an initial due date of May 13, 2006. This paper is timely filed and no fee is required.

Amendments to the Claims begin on page 2; and

Remarks begin on page 4.

Amendments to the Claims

This listing of claims will replace all prior versions, and listings, of the claims in this application.

Listing of claims:

1. (Presently Amended) A method for detecting the presence of at least one of squamous cell carcinoma and prostate cancer in a subject comprising:

providing a tissue sample from the subject a tissue sample that is suspected of being cancerous;

and

providing at least one nucleic acid probe or primer that is capable of hybridizing under stringent conditions with a nucleic acid having a sequence of either SEQ ID NO: 1 or SEQ ID NO: 3; and

assaying the sample with the at least one nucleic acid probe or primer to detect in the sample for presence of at least one DESC1 mRNA in the sample, wherein the at least one DESC1 mRNA can be derived from SEQ ID NO: 1 or SEQ ID NO: 3, using at least one nucleic acid that ribonucleic acid that is capable of hybridizing under stringent conditions with the at least one probe or primer hybridizes with the at least one DESC1 mRNA under conditions of about 5° to about 20° C below the Tm of said nucleic acid;

wherein reduced level of detected ribonucleic acid the at least one DESC1 mRNA, as compared to a normal tissue sample taken from the same tissue of the same subject, is indicative of the presence of at least one of squamous cell carcinoma and prostate cancer.

2-22. (Canceled)

23. (Previously Presented) The method according to claim 1, wherein the tissue sample is obtained from the head, neck, or prostate of the subject.

24. (Previously Presented) The method according to claim 23, wherein the tissue sample is obtained from the head or neck of the subject.

25. (Previously Presented) The method according to claim 23, wherein the tissue sample is obtained from the prostate of the subject.

26. (Canceled).

27. (Presently Amended) The method according to claim 23 1, wherein ~~the expression~~ the at least one probe or primer is capable of hybridizing under stringent conditions with a nucleic acid having a sequence of either of the at least one DESC1 in the sample is detected by testing for the presence of at least one of nucleotides 626-1321 of SEQ ID NO: 1 and or nucleotides 626-1321 of SEQ ID NO: 3.

28. (Presently Amended) The method according to claim 23 1, wherein the at least one nucleic acid probe or primer is chosen from SEQ ID NO: 5, SEQ ID NO: 6, SEQ ID NO: 7, SEQ ID NO: 8, SEQ ID NO: 9, and SEQ ID NO: 10.

Remarks

Claims 1, 23-25, 27 and 28 have been rejected. By this Response, claims 1, 27 and 28 have been amended. Support for the claim amendments can be found in the specification, and as such, add no new matter.

Claim Rejections – 35 U.S.C. § 112, First Paragraph

The Office has rejected claims 1, 23-25, 27 and 28 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, and has stated that “the specification ... does not reasonably provide enablement for a method of detecting said cancers with just any DESC1 mRNA.”

Claims 1 and 27 have been amended to remove recitation of “at least one DESC1 mRNA”. Accordingly, Applicant submits that the rejection of the claims under 35 U.S.C. § 112, first paragraph is rendered moot.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

The Office has rejected claims 1, 23-25, 27 and 28 under 35 U.S.C. § 112, second paragraph, as allegedly being vague and indefinite for the recitation of the term DESC1 as the sole means of identifying the “claimed polypeptide.”

Claims 1 and 27 have been amended to remove recitation of “DESC1”. Accordingly, Applicant submits that the rejection of the claims under 35 U.S.C. § 112, second paragraph is rendered moot.

In view of the foregoing, Applicant respectfully submits that the claims are now in condition for allowance. Notice to that effect is respectfully requested. If there is any fee due in connection with the filing of this Response, please charge the fee to our Deposit Account No. 03-0172.

Respectfully submitted,



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